

REMARKS

The Applicant has determined that paragraph 0038 includes typographical errors, and submits an amended paragraph 0038 in which the typographical errors have been corrected. In paragraph 0038, certain patents (U.S. Patent No. 5,642,580 and U.S. Patent No. 6,363,636) were incorporated by reference, and those patents set out the manner in which light which passes through flame-shaped apertures in a flame effect element is configured by such apertures to provide images of flames. No new matter has been added.

In response to the Election of Species Requirement dated July 25, 2005, the Applicant provisionally elects Species II. However the Applicant traverses the characterization of Species I and II as patentably distinct species, as the only differences between Species I and II is in the structure of the flame effect element (in Fig. 3A, element 46; in Fig. 3B, element 246), and in the positioning of the light source(s) and the flicker element relative to the flame effect element in each case.

As described in paragraph 0038, the flame effect element 46 "can include one or more apertures". In paragraph 0058, the flame effect element 246 is described as being "substantially reflective" and the reflective parts thereof are in the shape of flames. However, in the claims, reference is made to the flame effect "configuring light . . . to form . . . [the] image of flames" (claims 14 and 26). The Applicant therefore submits that the definition of the invention in claims 1 – 28, 40, and 41 reads on Species I and II. If the Examiner agrees with this categorization, then the Applicant further elects Species I. Of claims 1 – 28, and 37 - 41, all except for claims 37-39 are readable on Species I also.

The Applicant submits that claims 1 – 28 and 37 – 41 are readable on elected Species II. Accordingly, the Applicant submits that at least claims 1 – 28 and 37 – 41 should be initially examined on their merits.

The Applicant also submits that claims 1, 6, 16, 21, 37, 40, and 41 are generic.

The Applicant further submits voluntary amendments to the following claims: 1 – 3, 5 – 8, 10, 11, 13 – 17, 20, 21, 24 – 28, and 37 – 41. The amendments are intended to better define the invention. No new matter has been added.

If the Examiner feels a telephone interview would help to expedite the prosecution of this application in any manner, the Examiner is invited to call the agent of record at the telephone number listed below.

Respectfully submitted,



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